

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:09-00137

JOSEPH CLEVELAND FERRELL
SOUTHERN AMUSEMENT CO., INC.

O R D E R

Upon the Defendants' Motion to Continue Trial, filed by counsel for defendant Ferrell, Benjamin L. Bailey, and counsel for defendant Southern Amusement Co., Inc., Robert B. Allen, on October 16, 2009, requesting an order continuing the pretrial motions hearing scheduled for December 3, 2009, the trial currently scheduled for January 5, 2010, and all case related action for a period of eight months for the following reasons:

(1) to provide more time for review of discovery which consists of 300 gigabytes of email messages (which the defendants assert translates into 30 million pages), four file cabinets of documents, forty-one boxes of documents, copies of seized hard drives, grand jury transcripts and seven disks containing additional evidence; (2) to allow time for ruling in three "honest services" cases pending before the United States Supreme Court

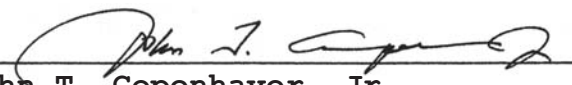
which is generally expected to occur during the current term by the end of June 2010, the outcome of which could influence this court's rulings on issues relating to certain counts of the superseding indictment; and (3) to allow more time for preparation of a defense in light of the fifty-one count superseding indictment unsealed on October 1, 2009; and the United States, by Hunter P. Smith, Jr., Assistant United States Attorney, having stated in the Response of the United States to Defendants' Motion to Continue Trial, filed on October 22, 2009, that it does not generally oppose a continuance of reasonable duration, but believes that the continuance requested by the defendants is unreasonably long; and the court finding that an extension of six months rather than the eight months requested by the defendants will suffice, it is, accordingly, ORDERED that the motion be, and it hereby is, granted to the extent that the pretrial motions hearing is continued to 9:30 a.m. on June 16, 2010, and the trial in this action is continued until 9:30 a.m. on July 7, 2010.

It is further ORDERED that the defendants' discovery responses are due on or before December 7, 2009; the defendants shall file pretrial motions on or before April 16, 2010; and the government shall file responses on or before May 7, 2010.

Pursuant to 18 U.S.C. §§ 3161(h)(1)(A), (h)(8)(A) and (B)(iv), the court finds the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial inasmuch as failure to grant the continuance would deny counsel for the defendants the reasonable time necessary for effective preparation for trial within the time limits established by the Speedy Trial Act, taking into account the exercise of due diligence. Accordingly, the period of delay from January 5, 2010, until July 7, 2010, is excludable in computing the time within which trial must commence pursuant to the Speedy Trial Act.

The Clerk is directed to forward copies of this order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: October 30, 2009



John T. Copenhaver, Jr.
United States District Judge